

APPEAL NO. 010116

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on December 28, 2000. With respect to the issues before her, the hearing officer determined that the appellant's (claimant) compensable injury of _____, did not extend to post-concussion syndrome, headaches, dizziness, and/or a sinus mucus retention cyst or polyp, and that the claimant did not have good cause for failing to attend a medical examination ordered by the Texas Workers' Compensation Commission (Commission) with Dr. G on May 18, 2000. In his appeal, the claimant essentially argues that those determinations are against the great weight of the evidence. In its response to the claimant's appeal, the respondent (carrier) urges affirmance.

DECISION

Affirmed.

The hearing officer did not err in determining that the claimant's compensable injury did not extend to post-concussion syndrome, headaches, dizziness, and/or a sinus mucus retention cyst or polyp. The hearing officer is the sole judge of the weight and credibility of the evidence. Section 410.165. The hearing officer noted that the claimant's testimony was not credible and that the medical evidence did not support the causal connection between his compensable injury and the complained-of conditions. The hearing officer was acting within her role as the fact finder in determining that the claimant did not sustain his burden of proof on the extent issue. Nothing in our review of the record indicates that the hearing officer's extent-of-injury determination is so against the great weight of the evidence as to be clearly wrong or manifestly unjust. Accordingly, no sound basis exists for us to disturb that determination on appeal. Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986); Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Turning to the issue of whether the claimant had good cause for not attending a Commission-ordered medical examination, we note that the hearing officer again determined that the claimant's testimony that he was advised by his treating doctor that he did not need to attend the appointment was not credible. That was a matter left to the hearing officer, as the fact finder, to resolve. Our review of the record does not reveal that the hearing officer's good cause determination is so contrary to the great weight of the evidence as to compel its reversal.

The hearing officer's decision and order are affirmed.

Elaine M. Chaney
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Thomas A. Knapp
Appeals Judge